

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

VISIBLE SYSTEMS CORPORATION,

Plaintiff

v.

UNISYS CORPORATION,

Defendant

Civil Action No. 04-CV-11610-RGS

**DEFENDANT’S RENEWED MOTION FOR
JUDGMENT AS A MATTER OF LAW**

Pursuant to Fed. R. Civ. P. 50(b), Unisys Corporation, hereby renews its motion for judgment in its favor as a matter of law on all remaining counts of the plaintiff’s First Amended Complaint and on all issues and requests for relief raised therein.

For reasons set forth in greater detail in the accompanying memorandum,¹ the jury’s verdict was not based on sufficient evidence. First, the evidence failed to support any rational conclusion that Unisys’s use of the 3D VISIBLE ENTERPRISE mark has created a likelihood of confusion among any relevant group of consumers. Second, the evidence did not rationally support the jury’s award of damages, which can only be regarded as arbitrary or speculative. Third, there was no sufficient evidence to support the jury’s finding of willfulness—which conflicts with the Court’s pre-trial ruling that Unisys adopted its mark in good faith.

For these reasons, the Court should enter judgment as a matter of law in favor of Unisys, notwithstanding the jury’s verdict, pursuant to Fed. R. Civ. P. 50(b).

¹ See “Defendant’s Memorandum of Law on Post-Trial Motions”

September 18, 2007

UNISYS CORPORATION,
By Its Attorneys,

/s/ William L. Boesch

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CERTIFICATE OF SERVICE

I hereby certify that this document is being filed through the ECF system, and that I am therefore relying on the system to complete service by sending copies of the filing electronically to the necessary counsel, who are registered participants.

/s/ William L. Boesch

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